

Appendix C

ENVIRONMENTAL COOPERATION PILOT PROGRAM ANALYSIS & RECOMMENDATIONS

INTRODUCTION

This report is divided into three parts. The first part describes the success of the program by going through statutory provisions that describe what the Environmental Cooperation Pilot Programs must do. This is the approach recommended in the September 7, 2001 letter from the Legislative Audit Bureau. The second part describes the recommendation to continue the program by extending the pilot program to June 30, 2006. The third part of the report identifies the changes that can be made in the program including a framework for development of more detailed recommendations for statutory changes, to coincide with the development of the 2003-05 Biennial Budget. The three parts correlate directly to the provisions of 299.80 (16) (b) Wis Stats requiring the department to report on:

1. "success of the program"
2. "recommendations concerning the continuation of the program"
3. "any changes that should be made to the program"

As with any pilot program, this has been a learning process. Most notably, we have learned that the program is more about the research and development of flexibility within the constraints of larger regulatory systems, legal precedent and long standing policy and less about a new line of environmental performance products that is ready to be test marketed. The challenge has not been how to develop the agreements. The challenge has been to find the provisions that can go into the agreements. This is the same as a company or partnership investing in research and development for a new product line.

The first companies to engage in the Environmental Cooperation Pilot Program have been our partners in the research and development work. The joint expenditure of resources from the state, federal and corporate levels are about establishing products and a process to deliver those products. The first agreements have been costly in both the financial and intellectual capital required to create them. Describing the cost of the first dose of a new vaccine based on the investment to develop it would be illogical. Similarly, describing the investments in the first cooperative agreements as the accurate reflection of the expected cost of the new products coming to the market place would be unfair. We owe a great deal of thanks to the companies investing in a potential future benefit (more likely to benefit companies coming after them), those who have engaged at the federal level and the staff who have frequently given of their personal time and willingly given creative, professional energy to the pilot.

The pilot program has developed products that deliver desired levels of flexibility and in so doing should produce improved levels of environmental performance. We are actively engaged in developing more of those "flexibility" products. The pilot program has also reached the level of maturity where we can begin testing whether we have a process to effectively and efficiently differentiate between companies desiring to participate and systematically deliver flexibility to those companies capable of delivering superior environmental performance. Our stakeholders have acknowledged, even those not participating in the program, that we have developed solid practical knowledge of what it takes to mine the command and control system for flexibility.

PART 1: SUCCESS OF THE PROGRAM

A full report, detailing the pilot program progress, will be submitted on November 1 as required in 299.80 (16) (a) Wis Stats. To satisfy the October 1 reporting requirements identified in 299.80 (16)(b) Wis Stats, we will use the framework provided in the statutes, 299.80 (2) Wis Stats. The 14 statutory requirements have been assessed and the progress towards fulfilling those requirements is reported here.

1. Provide at least the same level of protection of public health and the environment

Two agreements have been executed that were thoroughly reviewed by the department and USEPA to assure that all standards are met and performance is at the level specified by law. Three of the five agreements that are currently being negotiated have provisions which the Department has reviewed to

assure the same level of environmental performance and one proposed agreement is just completing production level testing, having completed bench testing earlier this year. This testing was done in connection with USEPA. On March 25, 1999 Wisconsin DNR and USEPA signed a memorandum of agreement with USEPA that sets the framework for this review and provides the assurance companies sought for clear endorsement by both the state and federal environmental authorities.

As a part of the screening process used for the program, companies proposing provisions that would have the potential for reducing the level of protection have been discouraged from participating in the program. In addition, the Department has used overall performance as an initial screening criteria. The purpose has been to identify companies with the highest probability of understanding and meeting these provisions in the law.

In some instances, this provision has prevented the pilot program from pursuing innovations that would have improved environmental performance. For example, deviation from the standards would have produced a combustion process that is cleaner burning overall.

2. Encourage facility owners and operators to systematically assess the pollution that they cause
All of the facilities participating in the program have gone beyond the basic requirement for committing to develop an environmental management system. The facilities are pursuing environmental management systems that are ISO 14001 based or functionally equivalent to ISO 14001. For the two agreements that have been executed, the facilities are pursuing standards that have audit requirements that are more rigorous than even the ISO standard and systems that tie more closely to the overall management systems for the company. The result is not only the systematic assessment of pollution but also the consideration of all environmental risk, not just pollution, and integration with formal decision making structures. Where the facilities have truly distinguished themselves is the breadth of review that has been accomplished. Involvement with stakeholders has produced superior descriptions of the environmental aspects of company operations. Use of formal EMS standards has added to the credibility of the systems results and the viability of systems performance.
3. Encourage facility owners and operators to implement efficient and cost-effective pollution reduction strategies for their facilities while complying with verifiable and enforceable pollution limits
The agreement with WEPCO is groundbreaking work that has been recognized across the country. The delivery of performance that produces zero waste from the combustion process, cleaner emissions and recovery of landfill space provides a level of performance that would not have been possible under existing law. Even before signing their cooperative agreement, Cook Composites reduced their solvent usage by 50% and continued to operate their incinerator under a more rigorous standard than was required by law. Northern Engraving, even before the agreement was signed, reduced volatile organic compounds by 10 percent and emissions of hazardous air pollutants by 11 percent.
4. Encourage facility owners to achieve superior environmental performance
It is still too early to assess whether the agreements will produce superior environmental performance. Agreement provisions drafted to date do encourage superior environmental performance. Agreement provisions include:
 - Install a modern environmental management information system to add even greater assurance of continual compliance with all regulations.
 - Ongoing environmental research concerning mercury air emissions and continuous particulate matter emission monitors.
 - Share environmental expertise.
 - Conducting environmental audits of key suppliers.
 - Recover coal ash from company-owned landfills and convert it from a waste product into a valuable commodity. The recovered ash will either be used to make an aggregate material for construction uses or be blended with coal or burned at the Pleasant Prairie Power Plant to generate electricity.
 - Through waste minimization and pollution prevention, eliminate or significantly reduce the waste streams that are currently burned.

- Ensure that hazardous wastes and other constituents are reduced at their source whenever possible, or, when not possible, that they are recycled in an environmentally sound manner, preventing undesirable transfer of chemical releases from one media (air, water, land) to another.
- Establish a long-term reduction in the amount of wastes generated and contaminants and pollutants released giving priority to those pollutants, contaminants and wastes of highest health and environmental concern.
- Implement a modern environmental management system to continuously improve practices to minimize environmental impacts, conserve natural resources and to work cooperatively with neighbors, the local community and others.
- Take leadership in product stewardship, integrating health, safety and environmental considerations into the design, development and improvement of products, including a commitment to conserve, where possible, natural resources and energy.
- In partnership with customers, strive to encourage continued environmental stewardship in the use and ultimate disposal of its products.

Even in the agreements that are under negotiation, we can see efforts to achieve environmental performance. One example is the Packaging Corporation of America. In developing a strategy to comply with an EPA requirement, PCA not only evaluated their process but also the intention of the regulation. PCA determined that compliance with the rule would result in only a 10% destruction of plant hazardous air pollutants (HAPs). In contrast by implementing an alternative technology, PCA could reduce pollutants by an order-of-magnitude. The alternative of collecting and treating foul condensates produced at the pulp mill primary and secondary condensers would exceed the efficiency of adding a collection/incineration process. If compliance with the rule were simply adhered to, 90 % of the hazardous air pollutants would continue as fugitive emissions.

5. Recognize and reward facility owners and operators who have demonstrated excellence and leadership in environmental stewardship or pollution prevention and who can achieve reductions in emissions and waste generation through implementation of innovative measures

With the first agreements just having been signed, recognition has been limited to the initial signing events and results are just beginning to come in on the agreements that have been implemented. As mentioned in other sections, facilities have been recognized through inclusion in and recognition through a variety of seminars and presentations on the development and application of innovative tools uses to achieve superior environmental performance. The measures developed by the Environmental Cooperation Advisory Group will be used as a foundation for recognition under the program. Additional flexibility may also be considered as a part of the recognition system in amendments to the existing agreements i.e. rapid extension of program benefits to existing participants but these elements are still in the formative stage.

One of the provisions of the statute that should be revisited is s. 299.80(10) that requires participants to pay all fees. This provision became part of the law based on a wide variety of concerns about whether fees should even be considered as part of an incentive package. Based on experience with the program, this could be less about incentives and more based on recognizing the value of the change that is being made. The department could be limited to using the fee waiver only when it would not have a material impact on the account to which the fees would be deposited. We should have the ability to consider whether giving something up in the way of fees is a smart decision. MGE is talking about \$80,000 on voluntary investments to manage stormwater, but we can't waive the \$200 fee. We agreed to allow WEPCO to do all of the work that DNR normally does for research and testing exemptions, but they still have to pay the \$800 fee that other companies pay when we do the work (it just happens faster). These are small expenses, but the point is that we can't provide even nominal recognition or rewards with the current statutory language. The potential exists to consider larger fees but those could also be considered as a part of a cost/benefit analysis where the distinction is not as clear as the examples above.

6. Encourage the transfer of information about methods for improving environmental performance and the adoption of these methods by others.

The Cooperative Agreement Advisory Group, consisting of representatives from each of the participant pilot facilities, environmental organizations, Wisconsin Manufacturers and Commerce, the U.S. Environmental Protection Agency – Region 5, and the Department of Commerce, held its first meeting in August of 1999. The Groups' mission is to provide guidance to the Department on Program development issues. The Advisory Group has also accomplished the exchange of experiences in the program and dissemination of information about the program's performance.

The Advisory Group assisted the Department in developing a set of performance measures for the Program and has done some preliminary work on defining key parameters that measure the Program as a whole. The Advisory Group has also provided input into the overall content of annual progress reports. The work of the Advisory Group has assisted in the sharing of information related to the practices in use at the facilities participating in the program.

Members of the Advisory Group have been instrumental in presenting the processes used to develop the agreements and the provisions contained in the agreements at both the state and national levels. Recent presentations have included the Multi State Working Group conference in Philadelphia in June 2001 and the Great Lakes Regional Pollution Prevention Roundtable in Madison in July 2001. Individually, members of the Advisory Group have assisted the Department in the development of effective strategies for the deployment of environmental management systems, counseled other businesses considering participation in the program, publicized the program, engaged with the commercial media explaining agreement provisions and assisted in the development of recruitment strategies for business.

7. Consolidate into a cooperative agreement, environmental requirements relating to a facility owned or operated by a participant that are otherwise included in separate approvals to the extent that consolidation is practical and efficient.

The Department is in the process of negotiating a corporate-wide agreement with one of the participants that will include 3 facilities and may expand to two additional facilities with a single owner. The agreement will consolidate the regulatory requirements that would have otherwise been managed through separate regulatory processes and enable the overall management of environmental requirements. The approach is designed to speed approvals, provide holistic management of environmental risks, reduce reporting requirements, provide better environmental performance data and explore new ways of improving both environmental and business performance.

Since the development of this process has involved considerable investment to research and develop the approach, the pilot will be pursued through to final approval before seeking new applications for this approach. This should provide assurance, if not certainty, for this approach in the future. Like other flexibility developed in the Environmental Cooperation Pilot Program, the challenge has been to find methods that will work in the principally restrictive framework that has distinguished the command and control system. Working through that labyrinth of restrictions should provide a defined and repeatable process with considerably lower development costs and transaction cost that can be clearly enumerated to prospective participants.

8. Grant the owners and operators of facilities greater flexibility than would otherwise be allowed under the law and rules

We have been successful in granting flexibility to the facilities but the law has also limited the flexibility that could have yielded specific improvements in environmental performance. Enumerated below is the flexibility that has been granted through the agreements that have been started.

a. Air Pollution Requirements:

- Limited exemption from construction permit requirements (for very small projects)
- Faster process for receiving testing/research permit exemptions
- Ability to commence construction (but not operation) of minor sources without a permit
- Faster schedule for operation permit revisions
- Reduced monitoring, record keeping, and reporting
- Waiver from Federal MACT standard in exchange for superior environmental performance;

- b. Wastewater Requirements:
 - Reclassification of site for coverage under less onerous stormwater permit
 - Reduced discharge monitoring report frequencies
- c. Solid Waste Requirements:
 - Streamlined landfill plan modifications
 - Ability to beneficially reuse landfilled coal ash
 - Expanded reuse opportunities for industrial wastes and streamlined process
- d. Hazardous Waste Requirements:
 - Permit waiver for innovative pollution control testing and evaluation and,
 - Extension of an effective permit period in order to allow for evaluation and potential implementation of an alternate pollution prevention technology.

Additional flexibility will be added as new agreements are completed and amended into existing agreements. In part this will also depend upon improving the capabilities of the company and DNR systems. For example, electronic reporting capabilities are not sufficiently refined to provide that flexibility at the present time, even though the parties have agreed in concept.

The granting of flexibility has also encountered some significant difficulties, especially in the application of the variance provisions contained in the pilot program. In short, even where we can clearly see that environmental performance would be improved, the variance provisions do not allow us to get there. Section 299.80(4)(b) created a new variance authority, but required that variances be "consistent with" subs. (2) and (3) (g). Sub. (3)(g) says pollution limits in a cooperative agreement must be at least as stringent as the limits in chs. 280 to 295 and the attendant rules. Although DNR has successfully used the authority in 299.80(4)(b)2. to provide alternative monitoring, recordkeeping, etc., DNR staff and attorneys have yet to encounter or imagine even a single hypothetical case where the authority in 299.80(4)(b)1. could be applied. This language is confusing because it seems to authorize variances only in cases where a variance is not needed, and it disallows variances in other cases where flexibility makes sense.

For example, DNR wanted to use this variance language to authorize Madison Gas and Electric to burn more of a paper-derived fuel that can replace coal on a pound for pound basis. Emissions from paper-derived fuel are subject to strict standards under chapter NR 445, the state's air toxics rule, but emissions from coal are completely exempt from the rule. The irony is that paper-derived fuel causes lower levels of pollution than coal, but we nevertheless could not give MGE a variance to burn unlimited amounts of paper-derived fuel because they could not meet the standards in NR 445 and our attorney says that would be "inconsistent with sub (3)(g)."

9. Seek to reduce the time and money spent by government and owners and operators of facilities on paperwork and other administrative tasks that do not result in benefits to the environment. Both facilities with executed agreements expect to reduce the paperwork and administrative tasks for their facilities. The Department and the companies recognize that the cost of identifying these reporting and administrative efficiencies are not likely to be recouped on a single facility. Similarly, the negotiation processes showed where there are some clear process gaps that the Department, working closely with the companies, is moving to fill. Electronic reporting is the initial gap that is being addressed and done in such a way that other companies will also be able to take advantage of the changes. The agreements themselves have provided a common platform for the companies to work together with the department to develop provisions that may be of mutual benefit. This will occur as the agreements mature and the common themes emerge from the environmental management systems that are put in place.

[The following 5 items relate to the engagement of the public in the development of the agreements]

10. Encourage public participation and consensus among interest d persons, in the development of innovative environmental regulatory methods and in monitoring the environmental projects
11. Seek to improve the provision of useful information to the public about the environmental and human health impacts of facilities on communities

12. Provide public access to information about performance evaluations conducted by participants in the program under this section.
13. Encourage facility owners and operators and communities to work together to reduce pollution to levels below the levels required by law
14. Seek to increase trust among government, facility owners and operators and the public through open communication and support of early and credible resolution of conflicts over issues concerning the environment and environmental regulation.

Under the terms of these agreements, the firms have performed periodic audits and performance evaluations. The companies are meeting regularly with interested persons from the community surrounding the plant, and stakeholders involved in reviewing environmental performance and discussing issues. The companies have also provided unprecedented access to the facilities, opportunities to engage in discussion of environmental issues (regulated and unregulated), and invested corporate resources in developing community understanding of environmental issues. The companies are reporting to the DNR and the interested persons groups. One of the companies has implemented a newsletter to the community to assure regular communications about issues of concern. The public has more information about environmental performance at these companies than ever before. It is also important to not that companies are addressing issues raised by stakeholders that are outside the scope of the agreements based on shared mutual interests that have emerged.

The Agreements contain provisions that may include:

1. Develop a newsletter that can be used to regularly communicate with the advisory committee, and all residences and businesses Develop a chemical fact sheet for the local community and neighbors
2. Provide publicized opportunities for plant tours for the general public and groups throughout the year.
3. Community Survey to gauge how public perception of environmental performance changes.
4. Access to information relevant to environmental performance
5. Information to the local media and encourage them to regularly provide information to the community about process changes and environmental activities.
6. Provide additional opportunities for community information exchange and dialogue as appropriate.

The agreements also contain evaluation provisions

1. Annually review the outreach plan with its Advisory Committee and adjust the program as necessary, providing a summary of changes as part of its annual performance evaluation.
2. Report to the Department Advisory Committee and Outreach Activities as part of scheduled evaluations.

PART 2: CONTINUATION OF THE PROGRAM

The Department recommends that the Environmental Cooperation Pilot Program continue by amending s. 299.80 (6)(e) Wis Stats to read:

“The department may not enter into an initial cooperative agreement after ~~October 1, 2002~~ June 30, 2006.”

To assure that the Department has the capability to use the process developed to extend agreements to other companies and extend the level of environmental performance accomplished through those agreements, the Department recommends amending s. 299.80 (2) Wis Stats to read:

“PILOT PROGRAM. The department shall administer a pilot program under which it enters into ~~not more than 10~~ cooperative agreements to evaluate innovative environmental regulatory methods.”

While this report is intended to address the Environmental Cooperation Pilot Program (ECPP), drawing the relationship to proposed Green Tier legislation is necessary. Both of the recommendations above and the changes suggested in Part 3 of this report would be needed regardless of the status of the proposed Green Tier legislation. Extending the sunset date for the Environmental Cooperation Pilot Program law allows continued exploration of regulatory flexibility and accumulation of information about performance based systems, essential to the development of Green Tier. ECPP also can provide a pool of business knowledge

to assist in the development of the systems needed to implement Green Tier along with a pool of companies eligible for Green Tier. If Green Tier is enacted into legislation, the ECPP could still fulfill an important role for companies that don't yet have a formal environmental management system but are interested in pursuing a customized agreement. We would expect significantly less interest in the ECPP should Green Tier become law but we have learned that variety in the tools available is more likely to produce solutions that can be adapted to the environmental and business needs.

To address two of the principle challenges of the program, the time that it takes to execute agreements and the expense related to the development of the agreements, the department is requesting the changes above. The extension of time in "pilot" status recognizes that the development work is still underway and further evaluation will help to determine the long term value of developing custom agreements for discrete regulated entities.

The reasons for continuing the pilot program are enumerated below. The Environmental Cooperation Pilot Program:

- 1) Is the only statutorily based tool to explore facility-wide approaches to innovation and to provide the legal basis and protection for exploration of flexibility in the administration of environmental regulations
- 2) Is the only program that ties directly to the internationally recognized use of environmental management systems.
- 3) Provides the foundation for performance based approaches to environmental improvement.
- 4) Allows for regulatory differentiation between facilities based on the ability of those facilities to deliver sustained superior environmental performance.
- 5) Provides a legal framework for the consideration of a consolidated approach to air, water and waste impacts on the environment and the union of environmental protection and restoration.
- 6) Provides a framework for the active engagement of the public and the community in the development and delivery of improved environmental performance.
- 7) Provides legally binding agreement that includes "beyond compliance" elements to achieve environmental goals.
- 8) Allows companies to leverage the use of environmental management systems by defining environmental goals and influencing the regulatory framework that governs how those environmental goals are met.
- 9) Delivers real environmental improvement with the legal foundation to deliver that improvement over time.

The agreements executed through the program and the agreements in the process of negotiation have provided the basis for exploration of new ways to enable the capacity of business. The law has provided ways to address environmental concerns and set the stage for environmental gains. That might not have been accomplished without the legal foundation provided in the law.

The recommendation to remove the limitation to 10 pilots is intended to consider ways in which the program can begin to address the cost and time issues. Limiting the immediate change to removing the limit on the number of facilities in the program maintains the needed balance with the other provisions of the law that remain to provide safeguards. In practical terms, the department is limited in the number of agreements that can even be considered. Given that no staffing or funding was provided when the law was passed, execution of the additional agreements is limited to those areas where the work:

- can be aligned with existing initiatives;
- contributes to long-term/existing program strategies;
- receives funding from outside sources; or
- can be done within the defined scope of existing responsibilities.

Work can however be done in such a way that the cost of the work is shared between participants. Similarly the work that has already been done can be packaged in such a way that others can realize the benefits from the work either in the time that it takes to move the agreements through the process or the use of provisions from prior agreements. These could also be a fundamental component for engaging small business but there may be other more important components for this group.

PART 3: CHANGES THAT CAN BE MADE IN THE PROGRAM

In the course of deliberations about the program and the re-examination of the statutory requirements for the program, several areas were identified where changes in the statutory language might increase the effectiveness and efficiency of the program. Repeatedly the discussions also focused on the limitations for the program without resources specifically dedicated to the program goals, also requiring legislative action. For both statutory modifications and additional resources a legislative package will need to be developed. We believe that package should be a part of the 2003-05 Biennial budget package and separate from the changes cited above, which simply extend the current program provisions.

To develop the legislative package, we are suggesting that the specific provisions would be developed jointly with the business community, environmental groups, other agencies and community based organizations. There are three reasons for adopting this course. First, when the legislation was considered for enactment into law, the Department was criticized for not including a broad base of participants. This approach could address some of the concerns that were not addressed in the initial language. Second, we have realized significant gains in both trust and acceptance for legislation of this type when more people have been included and we have generally found that the overall quality of the legislative products has improved. We have seen this most recently in the development of Brownfields legislation and Wetlands legislation just to name two. We also believe that we now have enough information to engage effectively in the dialogue and there is an ever increasing understanding of environmental management systems that should provide richness to the debate. Third, this time frame will provide the opportunity to align with consideration of Green Tier, to make sure that the legislative package provisions are necessary and that changes compliment legislative action on Green Tier.

The Department does have an existing group, the ECPP Advisory Group that could fulfill this role. While we intend to explore the specific statutory provisions with this group we would welcome suggestions from both the Governor's office and the Legislature for participants in the effort or suggestions for an approach that would be better suited to the legislative needs. Our intent is to have a legislative package completed by September 1, 2002.

To provide a framework for discussion of potential statutory changes, the Department, working in conjunction with the ECPP Advisory Group has identified the following areas that could produce program improvements based on experience with the program to date:

- 1) Allocate new staff to the Air, Waste, and Water programs to develop and deliver flexibility.
- 2) Provide specific small business resources to develop environmental management capacity and incentives to assure that those capabilities are applied to achieve superior environmental performance.
- 3) Amend statutory flexibility language to enable treatment of companies based more on environmental performance and commitment.
- 4) Develop new statutory language and legislative direction for administrative code for air, waste and water that authorizes and enables flexibility.
- 5) Amend statutory provisions for the formation of the Interested Persons Group to coincide with the start of actual negotiations and develop new language encouraging public participation and assessment of public interest prior to proposal development.
- 6) Separate statutory provisions relating to the Public Notice of Intent to Negotiate from the Announcement of a Counterproposal.
- 7) Clarify statutory language relating to the issuance of a variance to assure that flexibility determinations are based on performance.
- 8) Develop new statutory language to recognize the response process arising from Public Meetings and Public Comment Periods.
- 9) Amend statutory provisions relating to Amending Agreements and Revocation of Agreements so that facilities have due process protection that would enable them to withdraw from the program under adverse or unusual conditions.
- 10) Consider removing the requirement that all participants in ECPP pay the same fees as non-participants.
- 11) Consider a time-based "fee for service" system with participants.

The ECPP Advisory Group will be reconvening after January 2002 and this will be on the agenda for consideration by the group.

As with the development of the legislative package, Department staff in consultation with the ECPP Advisory Group have identified several changes that can be made administratively to enhance the performance of the program and begin addressing the challenges that have been identified. Listed below are the changes that have been identified. Several efforts are already underway to assure that the recommendations are implemented and these will be tracked and reported to the ECPP Advisory Group and managed through the Department's workplanning process.

- 1) Improve levels of participation and program visibility/viability by engaging the EPA, legislative branch, and executive branch. Improve the overall working relationship with other agencies (state and federal), the Environmental Commissioners of the States, community groups and environmental groups.
- 2) Clarify and better coordinate institutional processes within the Department.
- 3) Provide a more concrete institutional framework to identify and resolve air, waste and/or water issues that affect more than one of those media.
- 4) Capitalize on the air, waste and water program expertise developed through the ECPP program to improve overall service to facilities participating in the program.
- 5) Provide resources to facilities to develop their capacity to create and support an Interested Persons Group.
- 6) Encourage public involvement in the Pre-Application phase to enhance and expedite the consideration of agreement provisions.
- 7) Create an administrative option for addressing specific neighbor-related issues unrelated to the agreement through a process separate from the negotiation process.
- 8) Identify objective measurements that can be used to track program performance (cost of establishing agreements, time to complete development phases for agreements, etc.).
- 9) Provide clear estimates of the time lines to develop the agreement and a clear set of expectations for the respective parties engaged in developing the agreement based on the program analysis that has been done.
- 10) Track and report environmental results from the program.
- 11) Convert lessons learned through ECPP into consistent regulatory innovation throughout the Department.

Efforts are already underway to implement the recommendations listed above. The recommendations can be divided into four groups. To assist readers who are familiar with the September 7, 2001 Legislative Audit Bureau Letter, I have also shown the "challenges" from that letter in parenthesis after the groups. First, recommendation 1 seeks to expand the level of participation, awareness of the program and expand resources available to the program (LAB – Involvement of EPA & Involvement of Small Business). Second, recommendations 2 through 4 address the need to make more progress addressing the cultural issues associated with accepting and implementing the ECPP program (LAB – Support within the DNR for the pilot program). Third, recommendations 5 through 8 address a general need to better manage the involvement of the public in these processes (LAB – Ways to efficiently structure participation by interested persons). Fourth, recommendations 9 through 11 direct management attention to creating a defined, repeatable process that can be optimized (LAB – High transaction costs related to uncertain outcomes). For each group of recommendations a basic summary of the work underway is supplied.

1. Expanded outreach and engagement – Recruitment plans were developed in late July and implementation began in August to reach a larger audience to advise them of the program. Specific efforts from those plans have been targeted for small business. On a broader scale, actions initiated by DNR Sector Specialists have included in person presentations, general mailings (along with follow-up mailings and meetings), briefings for legislators, involvement of Department of Agriculture and Department of Commerce. Work with EPA has been more limited due to the change in administration. Work has focused on providing direct input for the new administration during the development of their Environmental Management Systems strategy (released 8/7/2001) and their Innovation Strategy to be released soon. The purpose of our work with EPA has been to assure that the services and infrastructure are aligned to provide meaningful change in the program.

To better manage our relationships with a wide variety of stakeholders, the Environmental Innovation Work Group was created in August 2000 and is comprised of senior managers from each division and 2 regional directors. Their charge is to assess the progress of the Environmental Cooperation Pilot Program (along with 5 other innovation programs) and address barriers that may arise. In the course of

doing that work, the group is now meeting on a quarterly basis with a group of 35 stakeholders to solicit input on progress and counsel on issues that arise.

2. DNR Culture – In November 2000, Air Management, Waste Management and Watershed Management formed a group to manage issues related to innovation. Since the LAB review the time dedicated to the group has increased and the focus has been directed more precisely. A staff person has just been selected to work part time to coordinate these efforts.

The Environmental Innovation Work Group (mentioned above) meets monthly to review progress and to resolve barriers. The most recent quarterly meeting with external stakeholders has resulted in greater emphasis on the need for cultural change. The Work Group provided final comments on the documents intended to work on the cultural issues and directed the development of an implementation plan to address the issue statewide.

3. Public Processes – The entire Bureau of Cooperative Environmental Assistance is going through training in the public participation and facilitation process. Linkages have been established between sites to help the sharing of resources and the pilot sites have also assisted the general problem solving related to the formation and maintenance of the interested persons groups. While some changes can be made for this issue, the primary problem appears to be capacity building for effective participation on corporate environmental issues that goes beyond present capabilities of both the department and most environmental organizations.
4. Process Development and Process Optimization – In January 2001 the ECPP Work Group comprised of all of the DNR sector specialists completed a process and timeline analysis for the ECPP program. That analysis forms the basis for the process optimization that will be used with all subsequent pilot sites and tracked as sites move through the process. Recruitment materials have been modified to reflect the results of the process analysis. The next task for the ECPP Work Group will be to select process indicators to measure the progress of the sites and accurately capture cost information.

CONCLUSION

The agreements that have been finalized have demonstrated environmental benefits and considerably more potential for environmental benefit. Much of the improvement needed in the program can be accomplished through administrative change that has started in earnest in the last 6 months with the completion of a process analysis. To complete the work of the pilot, the department is requesting that the program be extended to June 30, 2006 and that the limitation to 10 pilot sites be removed. To assure that the statutory provisions and staffing needs are fairly examined a broad based group of internal staff and external stakeholders will make recommendations for the 2003-05 budget. Work will continue to improve the overall performance of the process and documentation of the environmental results that the program is producing.